

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

DAVID SANTIAGO SANCHEZ-ONOFRE,

Petitioner,

v.

**9:03-CV-572
(FJS/DEP)**

**WILLIAM M. CLEARY, Acting Field Office
Director Detention and Removal, Bureau
of Immigration and Customs Enforcement (ICE),
Department of Homeland Security (DHS),**

Respondent.

APPEARANCES

OF COUNSEL

DAVID SANTIAGO SANCHEZ-ONOFRE

A44586079

Wallkill, New York 12589

Petitioner *pro se*¹

**UNITED STATES DEPARTMENT OF
HOMELAND SECURITY**

Bureau of Immigration and Customs
Enforcement

District Counsel – Buffalo District

130 Delaware Avenue, Room 203

Buffalo, New York 14202

Attorneys for Respondent

JAMES W. GRABLE, SAUSA

SCULLIN, Chief Judge

ORDER

In this action, Petitioner challenges an order of the former Department of Immigration

¹ At the time that Petitioner commenced this action, although he was subject to a removal order, he was not in custody. Subsequently, on September 23, 2003, he was arrested pursuant to a warrant of removal issued in the removal proceeding and was transported to the Buffalo Federal Detention Facility in Batavia, New York, where the ICE is holding him pending the disposition of this proceeding.

and Naturalization Services which ordered Petitioner's removal from this country. *See* Dkt. No.

1. By Memorandum-Decision and Order dated June 15, 2005, *see* Dkt. No. 19, this Court adopted Magistrate Judge Peebles' December 22, 2004 Report-Recommendation in which he recommended that the Court dismiss this action, *see* Dkt. No. 17.

On May 11, 2005, the President signed into law the "Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005," Pub. L. No. 109-13, 119 Stat. 231, and Division B thereof, which is referred to as the "Real ID Act." Pursuant to § 106(c) of the Real ID Act, the exclusive means of review of an administrative order of removal, deportation or exclusion is a petition for review to the appropriate Court of Appeals.

Since Petitioner challenges an administrative order of removal that was issued following immigration proceedings completed in this Circuit, and he filed this action prior to May 11, 2005, the Court hereby

ORDERS that this Court's June 15, 2005 Order is **VACATED**; and the Court further

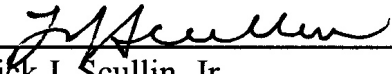
ORDERS that, pursuant to § 106(c) of the Real ID Act, the instant petition is hereby **TRANSFERRED** as a **PETITION FOR REVIEW** to the Second Circuit Court of Appeals; and the Court further

ORDERS that Petitioner's removal is **STAYED** pending further Order of the Second Circuit Court of Appeals; and the Court further

ORDERS that the Clerk of the Court serve a copy of this Order on the parties to this action.

IT IS SO ORDERED.

Dated: June 21, 2005
Syracuse, New York



Frederick J. Scullin, Jr.
Chief United States District Court Judge